

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.53 OF 2007
IN
CRIMINAL APPLICATION NO.1444 OF 2006

Birla Global Finance Limited ...Applicant.
Versus
State of Maharashtra
and 2 Ors. ...Respondents.

.....
Mr.Nimish Desai, Advocate for the Applicant.
Mr.A.S.Shitole, APP, for State.
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CORAM : SMT.V.K.TAHILRAMANI, J.

DATED : 12th March, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. By order dated 18th April, 2006 notice was issued to respondents returnable after six weeks. By order dated 5th June, 2006 a conditional order was passed that the petitioner shall serve the unserved respondents by Advocates notice either personally or through R.P.A.D./speed post/courier/e-mail/fax and file affidavit of service within four weeks from that day, failing which the application shall stand dismissed without further reference to the Court.

3. As the affidavit of service was not filed with the office within a period of four weeks, the

application came to be dismissed.

4. The learned counsel for the applicant has pointed out that infact the respondents were served by 14th June, 2006. However, the counsel was under the impression that the affidavit was to be tendered before the Court on the next date, hence the affidavit of service was not filed in the department. He has pointed out that infact the respondents were served on 14th June, 2006 itself. The learned counsel for the applicant has prayed that in these circumstances the application may be restored.

5. In this view of the matter, in my view sufficient cause is made out for restoration of Criminal Application No.1444 of 2006. Hence, Criminal Application No.1444 of 2006 is restored to file.

6. Application is disposed of.

(SMT.V.K.TAHILRAMANI, J.)